

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>TERMAINE HICKS</b>	:	: <b>CIVIL ACTION</b>
	:	
v.	:	: <b>NO. 22-977</b>
	:	
<b>CITY OF PHILADELPHIA, MARTIN</b>	:	
<b>VINSON, ROBERT ELLIS, ARTHUR</b>	:	
<b>CAMPBELL, MARK WEBB,</b>	:	
<b>MICHAEL YOUSE, FRANK</b>	:	
<b>HOLMES, DOUGLAS VOGELMAN,</b>	:	
<b>KEVIN HODGES, DUANE WATSON,</b>	:	
<b>DENNIS ZUNGOLO, MARY</b>	:	
<b>BRIDGET SMITH</b>	:	

**ORDER**

**AND NOW**, this 16<sup>th</sup> day of August 2023, upon considering defendants City of Philadelphia, Martin Vinson, Robert Ellis, Dennis Zungolo, Duane Watson, the Estate of Brian Smith, Michael Youse, Frank Homles, Arthur Campbell, Mark Webb, Doublas Vogelman, and Kevin Hodges partial motion to dismiss (DI 26), plaintiff Termaine Hicks's amended complaint (DI 23), the brief in opposition to defendants' partial motion to dismiss (DI 29), the reply in support of defendants' partial motion to dismiss (DI 30), and the supplemental responses in opposition to defendants' partial motion to dismiss (DI 44, 77), and for the reasons in the accompanying Memorandum, it is **ORDERED** that defendants' partial motion to dismiss (DI 26) is **GRANTED IN PART** and **DENIED IN PART** as specified below:

1. Defendants' motion is **DENIED** with respect to Count II (deprivation of liberty without due process of law and denial of a fair trial by intentionally concealing and deliberately suppressing material exculpatory and impeachment evidence) of Mr. Hicks's amended complaint.

2. Defendants' motion is **DENIED** with respect to Count III (malicious prosecution

in violation of the Fourteenth Amendment) of Mr. Hicks's amended complaint.

3. Defendants' motion is **GRANTED** with respect to Count IV (civil rights conspiracy) to the extent Mr. Hicks asserts a civil rights conspiracy based on the underlying rights to be free from unreasonable search and seizure, false arrest and false imprisonment because Mr. Hicks's has waived a civil rights conspiracy claim based on these rights. The remainder of Count IV will proceed to discovery.

4. Defendants' motion is **DENIED** with respect to Count V (municipal liability claim).

5. Defendants' motion is **DENIED** with respect to any claims related to Mr. Vogelmann and Mr. Hodges. The claims against Mr. Vogelmann and Mr. Hodges will proceed to discovery.

  
MURPHY, J.